



Remarks

This amendment responds to the official action of Paper No. 15 and includes a three month extension and a notice of appeal with the required official fees.

By this response applicant addresses each of the requirements made in the final rejection of Paper No. 15, correcting the noted matters without introducing new issues requiring further consideration or search.

This response includes a notice of appeal intended to ensure that the matter remains pending for submission of a continuation. Nevertheless, the present application is believed to be in condition for allowance.

In the official action the examiner or the official draftsman pointed out a number of discrepancies where reference numbers are considered missing or used more than once in the specification or drawings, respectively. Each of the matters to which reference is made in the official action has been corrected by revisions to the specification. Each of the revisions is a correction that would be apparent to a person of ordinary skill from review of the specification as filed.

Specifically in paragraph 42, a distinction between the channel 41 per se, shown straight, and the channel in the inclined state 42, as shown in the drawings has been expressed in the specification. The protruding finger tab 50b on the back of terminal part 50, shown in Figs. 1a, 1b, 1c, 5, is now named in paragraph 49 as tab 50b. The term "tab" is routine and apt for the plate on terminal part 50 as that is shown in the drawings. The axial spring 41a in Figs. 7a, 7b is mentioned in paragraph 60. Number 26 in Figs. 7a, 7c now refers to the gap 26 of length x1. Number 27 likewise in paragraph 64 is the gap 27 of length y1. Inasmuch as the gaps and their lengths are different but related aspects of the drawings and the descriptions, there is no lack of clarity in separate references to both. In paragraphs 61, 63, 64, corrections are made to properly distinguish the pushbutton mechanism 35 from the internal selectively engageable web parts 33, 34 thereof. This change also corrects the informality noted in the specification.

The foregoing changes are routine matters. No new matter is presented.

Regarding further formalities, the examiner objected to the claims in that the independent claims should commence with - - A writing instrument - - and the dependent claims with - - The writing instrument - -. This change has been made. The noted missing article at claim 30 line 13 (said two shaft parts) is inserted.

The examiner objected to the following phrases as lacking antecedent basis in the specification, and which have been corrected as follows:

A. (claim 1) *"said tip device is variably inclinable to an inclination"* is changed to - - said tip device is inclinable . . . - -. Support is found, for example, at paragraph 43, ". . . *said tip is arranged to be inclinable, tiltable or pivotable at a bearing L offset with respect to said axis 100 . . .*" Paragraph 6 states, *"adjusted in its inclination relative to an axis of a writing shaft and by an adjusting means . . . said tip device maintaining its changed position after said adjustment or being directly adjustable again by said adjusting means."*

B. (claim 1) *"a leaf shaped spring"* is changed to - - a leaf spring - -. Support is found at paragraph 45, ". . . *a leaf spring 17 may be inserted into a recess 16 in said tip device, said leaf spring starting to apply returning forces relative to the inner wall of said shaft 20 upon an increasing inclination.*"

C. (claim 1) *"a . . . spring is provided at a backwards facing end portion of said tip device, for contacting an inner wall of said shaft"* is changed to - - a . . . spring is provided between a portion of said tip device and an inner wall of said shaft - -. Support is found at paragraph 45, *"said leaf spring . . . relative to the inner wall of said shaft 20."*

D. (claims 28, 30, 31, 34) *"said tip device is variably inclinable"* is changed to - - said tip device is inclinable - -. Support is found at paragraphs 6 and 43, quoted at part A above.

Claim 1 and the claims depending from claim 1 were rejected under 35 U.S.C. §112, 1st para., on the ground that the specification did not support the aspect of the leaf

spring effecting a resetting or return force. Applicant has removed the term “resetting” as possibly causing undue confusion. However the disclosure as filed supports the aspect of a returning or resetting force. Among other examples,

Specification paragraph 9 states, “A returning force, moving said tip from its changed inclined position back to a straight position, may be obtained by providing an elastic portion of a refilling device or cartridge arranged in said shaft axis or a spring means applying a force component on said tip device, such that a torque around a bearing position of said tip device at the shaft is generated, said torque urging said tip device back into its basic position.”

Specification paragraph 20 states, “A leaf spring additionally provided at the rear end of said tip device, which spring may be located on the opposite side of the described bearing, provides an increased dynamic effect upon pivoting said tip device to be more inclined, said dynamic effect resulting from a contact of said leaf spring with the inner shaft wall. Thereby, a returning torque is achieved”

Applicant is pleased to note that claim 30 has been allowed (subject to the requirement for formal corrections as made herein) together with claim 22, depending from claim 30.

In the previous official action, allowable subject matter was indicated as to claims 6, 7, and 9. Applicant responded by amending claim 1 to incorporate claims 1 and 9, and amending claim 30 to include claims 1 and 6. Claim 34 was to be amended by incorporating claims 1 and 21 in a supplemental amendment that the undersigned attempted to file by facsimile on October 7, 2003, but that apparently was not received or made of record.

Claim 30 is now allowable as amended. Reconsideration and allowance of claims 1 and 34 are requested. The objection on grounds of potential lack of enabling disclosure or antecedent basis in the specification have been obviated. The claims are supported by an enabling disclosure.

Claims 28, 29 and 31-33 have been canceled without prejudice to their presentation in a continuing application. The remaining claims are properly allowable.

This response is limited to placing into allowable form the subject matter that is believed to be allowable based on indications of allowability that are of record in the case. No new issues are presented that could require substantial additional consideration or search. Therefore, entry of this amendment will advance prosecution for purposes of appeal if claims are not allowed, for example should the rejection under 35 U.S.C. §112, 1st para. be maintained. Accordingly, applicant requests entry of this amendment.

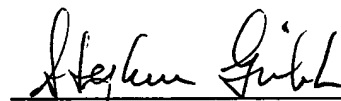
Applicant also requests withdrawal of the rejections and objections and allowance of the claims as amended.

The claims are supported by an enabling disclosure. The claims particularly and distinctly define the subject matter of the invention. The differences between the invention and the prior art are such that the subject matter claimed as a whole is not shown to have been known or obvious. Reconsideration and allowance of the claims are requested.

Respectfully submitted,

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